

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR  
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CIVIL SECOND APPEAL No. 18 of 2005

KHAJU KHAN  
V/S  
MANGILAL & ORS

Mr. MANISH SHSIODIA, for the appellant / petitioner

Date of Order : 28.1.2005

HON'BLE SHRI N P GUPTA, J.

ORDER  
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Heard learned counsel for the appellant and perused the judgments of the two learned Courts below.

The suit for specific performance was contested mainly on the ground that the agreement in question was not executed in favour of the defendant, and the document is forgery, while during evidence, the defendant admitted the signatures on the document Ex.1 as A to B. Learned Courts below after appreciating the evidence have found the signatures to have been proved which is a pure finding of fact.

The question raised by the learned counsel for the appellant is, that in view of Section 41 of the Rajasthan Tenancy Act read with Section 23 of the Indian Contract Act, the agreement was illegal, and therefore, the suit could not be filed. I do not find any force in this argument either, as Section 41 does not prohibit any such transaction, and on the face of the language of illustration appended to Section 115 of the Evidence Act, the contention sought to be propounded cannot be accepted.

The appeal thus, has no force, as it does not involve any substantial question of law, and the same is, therefore, dismissed summarily.

( N P GUPTA ), J.

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